

JD



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/661,841	09/12/2003	Daniel T. Marston	EPPSEP P01AUS	8550

20210 7590 04/08/2005

DAVIS & BUJOLD, P.L.L.C.
FOURTH FLOOR
500 N. COMMERCIAL STREET
MANCHESTER, NH 03101-1151

EXAMINER

PHILLIPS, CHARLES E

ART UNIT PAPER NUMBER

3751

DATE MAILED: 04/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/661,841

Applicant(s)

MARSTON, DANIEL T.

Examiner

Charles E. Phillips

Art Unit

3751

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 February 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18, 21 and 22 is/are pending in the application.
- 4a) Of the above claim(s) 7-11, 15 and 16 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 and 12-14, 17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Art Unit: 3751

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this

Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4, 11, 13, 17, 18 and 21-22 are rejected under 35 U.S.C. 102(b) as being anticipated by Carolan.

The term “chemical” of claim 1, line 1 defines no structural limitation here. See the housing 13, toilet 15 and storage tanks 10. The “coupling” is seen where 45 is employed. The pumping coupling is seen where the outlet conduit connects to the tank. The claim 2 recess is seen at 14 and the fresh water access is seen at 40. The spray nozzles are seen in 43. Claims 3-4 are met by the plurality of openings in 43. Re: claim 11; see the funnel shape of tank 10. Re: claim 13, the enclosure here would be expected to have four walls, door and roof.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 12 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Carolan, as applied supra.

Art Unit: 3751

To provide these expedients would have been obvious to the ordinary artisan, as they are well known, of which official notice is taken

Claims 5-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Carolan, as applied *supra*, in view of Corsiglia.

To provide the former with a pivoted seat and a urinal as taught by the latter in Fig. 3, see element 71 for the urinal, would have been obvious to the ordinary artisan as both teach portable toilet environments. To further add a lid would have constituted an obvious expedient as same is well known, of which official notice is taken.

The traversal of the restriction is noted but is not well taken. With respect to the instant claims the sub-combination has utility in the absence of a vehicle and the combination does not require the particulars of the various dependent claims 3-6 etc. The election of the species of Fig. 8 is noted; however, no listing of claims deemed readable thereon has been made. Claims 7-10 are directed to Fig. 7 and therefore not readable on Fig. 8. Claims 21-22 are acted upon as a courtesy as they read on Carolan, but they are could be divided from I by the "forming" step.


Claims 7-11, 15 and 16 stand withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 2/14/05.

-DeBoliac shows a servicing vehicle.

Art Unit: 3751

Any inquiry concerning this communication should be directed to Charles Phillips at telephone number (571) 272-4893.

Phillips/PJ
04/05/05



Charles E. Phillips
Primary Examiner